

common law may have been made a felony by statute the misdemeanor shall not be merged in the felony, but the indictment may contain counts for the said felony and also for the misdemeanor.

In prosecution for bastardy, evidence did not show commission of rape with sufficient certainty to apply doctrine of merger, assuming that doctrine still prevails in Maryland. *Klein v. State*, 151 Md. 491.

This section referred to in construing sec. 3. *Larkins v. State*, 163 Md. 378.

### Indictments—False Pretenses.

An. Code, 1924, sec. 555. 1912, sec. 498. 1904, sec. 440. 1888, sec. 288. 1835, ch. 319, sec. 2.

**651.** In any indictment for false pretenses it shall not be necessary to state the particular false pretenses intended to be relied on in proof of the same, but the defendant, on application to the State's attorney before the trial, shall be entitled to the names of the witnesses and a statement of the false pretenses intended to be given in evidence.

This section referred to in sustaining indictment under art. 27, sec. 184. *State v. Coblenz*, 167 Md. 529.

Where bill of particulars, under count for obtaining money under false pretenses, failed to give the names of witnesses, held immaterial when admitted by defendant that such names were furnished him. A bill of particulars furnished as provided by this section is no part of the indictment or pleading, and if the indictment is in usual form, and not demurrable on its face, does not become so when considered in connection with bill of particulars; nor can defective indictment be made sufficient by bill of particulars. *Delcher v. State*, 161 Md. 475.

Cited but not construed in *Summons v. State*, 156 Md. 384, 392.

Exceptions to bill of particulars filed under this section, properly overruled—see notes to sec. 150. *Lyman v. State*, 136 Md. 48.

The office of bill of particulars is first to inform defendant of names of state's witnesses and secondly to furnish him a statement of the false pretenses relied on; bill of particulars is no part of pleading or indictment, and not subject to demurrer; it may be amended. The bill of particulars may be excepted to when it is not satisfactory, as when it fails to give defendant proper information or when it sets forth evidence which is not admissible at the trial. Bill of particulars held sufficient. *Jules v. State*, 85 Md. 309; *Schaumloeffel v. State*, 102 Md. 473.

This section does not restrict state's attorney to list of witnesses furnished defendant, nor does it control or affect competency of witnesses; trial court may in its discretion allow state to examine witnesses other than those whose names were furnished defendant under this section. *Cairnes v. Pelton*, 103 Md. 44; *Schaumloeffel v. State*, 102 Md. 473; *Simmons v. State*, 165 Md. 160.

Indictment for false pretenses alleging that traverser obtained from A and B, by a false pretense made to them, certain property of the goods and chattels of the said A and B with intent to defraud, etc., the indictment being accompanied by bill of particulars setting forth false pretense, is sufficient. *Carnell v. State*, 85 Md. 1. And see *State v. Blizzard*, 70 Md. 387; *Armacost v. State*, 133 Md. 292.

This section referred to in sustaining the validity of sec. 663. *Keifer v. State*, 87 Md. 565.

As to false pretenses, see sec. 150, *et seq.*, and notes.

### Indictments—Gaming—Lotteries—Amendment.

An. Code, 1924, sec. 556. 1912, sec. 499. 1904, sec. 441. 1888, sec. 289.  
1856, ch. 195, secs. 1, 10.

**652.** In any indictment for violation of the law prohibiting gaming, or for violation of the law prohibiting the drawing of lotteries or the selling of lottery tickets or other device in the nature thereof, it shall not be necessary to set forth the particular kind of gaming or gaming table, or to set forth the particular scheme of lottery, but it shall be sufficient if the indictment sets forth that the defendant kept a "gaming table," or that "he drew a lottery," or sold a "lottery ticket," as the case may be, but the defendant may, by application to the State's attorney, obtain a statement more particularly describing the offense intended to be proved under such indictment.

This section applied to indictment for gambling. *Wheeler v. State*, 42 Md. 567.

As to gaming, see sec. 288, *et seq.*

As to lotteries, see sec. 405, *et seq.*